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International Residual Mechanism for Criminal Tribunals

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Seventy-first year

International Residual Mechanism for Criminal Tribunals

Note by the Secretary-General

The Secretary-General has the honour to transmit to the members of the General Assembly and of the Security Council the fourth annual report of the International Residual Mechanism for Criminal Tribunals, submitted by the President of the Mechanism in accordance with article 32 (1) of the statute of the Mechanism (see Security Council resolution 1966 (2010), annex 1).

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Letter of transmittal

Letter dated 1 August 2016 from the President of the International Residual Mechanism for Criminal Tribunals addressed to the President of the General Assembly and the President of the Security Council

I have the honour to submit the fourth annual report of the International Residual Mechanism for Criminal Tribunals, dated 1 August 2016, to the General Assembly and the Security Council, pursuant to article 32 (1) of the statute of the Mechanism.

(*Signed*) Theodor **Meron**
President

Summary

Fourth annual report of the International Residual Mechanism for Criminal Tribunals

The present annual report outlines the activities of the International Residual Mechanism for Criminal Tribunals from 1 July 2015 to 30 June 2016, which brought to a close the first period of operations of the Mechanism, spanning four years, as prescribed by the Security Council in resolution 1966 (2010). It will be followed by a new, two-year period of operations.

The Mechanism was established by the Security Council to carry out a number of essential functions of the International Criminal Tribunal for Rwanda and the International Tribunal for the Former Yugoslavia after the closure of the two Tribunals. Those functions include attending to a wide range of judicial matters, locating and arresting remaining fugitives, providing protection to witnesses, supervising the enforcement of sentences and managing the archives of the two Tribunals.

With branches in Arusha, United Republic of Tanzania, and The Hague, the Netherlands, the Mechanism is operating on two continents and continues to draw upon the best practices of the International Criminal Tribunal for Rwanda, the International Tribunal for the Former Yugoslavia and other tribunals, while also actively pursuing new ways to improve its operations, procedures and working methods so as to maximize its effectiveness and efficiency. The Mechanism is guided in its activities by the Security Council's emphasis on it being a small, temporary and efficient structure, whose functions and size will diminish over time, with a small number of staff commensurate with its reduced functions.

During the reporting period, the President supervised matters relating to the management of the Mechanism, coordinated the work of the Chambers, presided over the Appeals Chamber and issued a large number of orders and decisions on issues including the enforcement of sentences, the assignment of counsel and legal aid. The Mechanism's Trial Chambers have been seized of a retrial during the reporting period and of a request for revocation of a referred case, while the Appeals Chamber is seized of two appeals from judgment and has issued a number of decisions in those and other cases. In addition, single judges issued a large number of orders and decisions on a range of matters, including assisting national jurisdictions through ruling on requests for variations of protective measures and requests for access to confidential information.

The Office of the Prosecutor focused on three priorities: (a) locating and arresting fugitives; (b) the expeditious completion of trials and appeals; and (c) assistance to national jurisdictions. The Office of the Prosecutor also continued to perform its responsibilities in respect of other residual functions, including handling the large volume of non-trial and appeal litigation before the Mechanism.

The Registry provided and coordinated the administrative, legal, policy and diplomatic support services for the Mechanism. As part of its substantive functions, the Registry offered protection and support services to witnesses, worked on multiple aspects of the enforcement of sentences handed down by the Tribunals and supported the Tribunals in the preparation of records and archives for transfer to the

Mechanism. As part of its administrative functions, the Registry supported all the organs of the Mechanism in completing recruitment and continued the gradual process of establishing the Mechanism's own self-standing capacity. The Registry is also managing the construction of the new premises for the Arusha branch.

I. Introduction

1. The fourth annual report of the Mechanism outlines the activities of the Mechanism for the period from 1 July 2015 to 30 June 2016, which brings to a close the first period of operations of the Mechanism, spanning four years, as prescribed by the Security Council in resolution 1966 (2010).

2. The Mechanism's mandate includes ensuring the trial of the remaining fugitives. While the International Tribunal for the Former Yugoslavia has no outstanding fugitives charged with serious violations of international humanitarian law, eight individuals indicted by the International Criminal Tribunal for Rwanda are still at large. Three of the eight are expected to be tried by the Mechanism and the cases of the remaining five have been referred to Rwanda for trial.

3. The Mechanism has also been mandated to conduct a number of other judicial activities, consistent with the provisions of its statute and the modalities specified in the transitional arrangements. These activities concern retrials of cases completed by the two Tribunals, appeals of their judgments and sentences, reviews of their proceedings, and contempt of court and false testimony cases.

4. In addition, the Mechanism has been tasked with assuming certain functions of the two Tribunals, including: the protection and support of victims and witnesses who have testified in the Tribunals' cases; management of the Tribunals' archives; supervision of the enforcement of Tribunal sentences; responding to requests for assistance from national authorities; and monitoring cases referred to national courts by the Tribunals.

5. During the reporting period, the Mechanism conducted a range of judicial and other activities within its remit. The Mechanism also further developed its legal and regulatory framework.

II. Activities of the mechanism

A. Organization

6. The Security Council established that the Mechanism would operate for an initial four-year period, starting from 1 July 2012. Unless the Council decides otherwise, the Mechanism shall continue to operate for subsequent periods of two years, following reviews by the Council of the progress of the Mechanism's work, including in completing its functions. The Council completed its first review of the progress of the Mechanism's work in December 2015, as set forth in Security Council resolution 2256 (2015) and reflected in General Assembly resolution 70/227.

7. The Mechanism consists of three organs, which serve both branches of the Mechanism: (a) the Chambers from which single judges can be appointed and trial and appeal benches formed as needed, and which is presided over by the President; (b) the Prosecutor; and (c) the Registry, which provides administrative services to the Mechanism, including the Chambers and the Prosecutor.

8. Each organ is headed by a full-time principal, common to both branches. The President of the Mechanism is Judge Theodor Meron. The Prosecutor for the

Mechanism is Serge Brammertz, who concurrently serves as the Prosecutor of the International Tribunal for the Former Yugoslavia. The Mechanism's Registrar is John Hocking, who concurrently serves as the Registrar of the International Tribunal for the Former Yugoslavia. During the reporting period, the initial terms of appointment of the Mechanism's original principals came to an end. Renewed appointments were made with respect to the President and the Registrar, while Mr. Brammertz was appointed to replace the Mechanism's first Prosecutor, Hassan Bubacar Jallow.

9. The Mechanism has a roster of 25 independent judges, elected by the General Assembly to serve a four-year term. During the reporting period, Judge Seymour Panton was appointed to serve as a judge of the Mechanism following the resignation of Judge Patrick Robinson. At the close of the reporting period, the initial terms of appointment of the judges of the Mechanism came to an end. New appointments were made with respect to all judges of the Mechanism for a term of two years, effective 1 July 2016.

B. Legal and regulatory framework

10. An agreement between the United Nations and the Netherlands concerning the branch of the Mechanism at The Hague was signed on 23 February 2015. Upon its entry into force on 1 September 2016, this agreement will, inter alia, regulate matters relating to the proper functioning of the Mechanism in the Netherlands, facilitate its smooth and efficient functioning and create conditions conducive to the Mechanism's stability and independence.

11. As provided by article 13 of the statute, the judges of the Mechanism may decide to adopt amendments to the Rules of Procedure and Evidence and any such amendments shall take effect upon adoption by the judges of the Mechanism, unless the Security Council decides otherwise. On 18 April 2016, the judges, through remote written procedure, adopted an amendment to rule 24 of the Rules whereby the designated Duty Judge at the Arusha branch of the Mechanism would assume the functions of the President temporarily if the latter were not to remain in office or were unable to carry out the functions of the President.

12. The Mechanism further developed procedures and policies building upon the best practices of both the International Criminal Tribunal for Rwanda and the International Tribunal for the Former Yugoslavia. During the reporting period, the Mechanism adopted new practice directions on the procedures for amending the Rules and for implementing rule 110 (B) on the admission of written statements into evidence, respectively. In addition, the Registrar adopted a number of legal aid policies applicable to counsel representing and persons assisting eligible accused persons before the Mechanism.

C. Mechanism Coordination Council

13. Pursuant to rule 25 of the Rules of Procedure and Evidence, the Mechanism Coordination Council is composed of the President, the Prosecutor and the Registrar and meets on an ad hoc basis to coordinate the activities of the three organs of the Mechanism. The Council has met to discuss, inter alia, matters concerning relations with Rwanda and countries of the former Yugoslavia, the strategic plan on acquitted

persons and persons released following enforcement of sentence, and other matters of common concern.

D. Rules Committee

14. Following the issuance in May 2016 of a practice direction on the procedures for amending the Rules, the Mechanism's Rules Committee was reconstituted. The Committee is currently considering a number of proposals for amendments to the Rules.

E. Coordination with other tribunals

15. During the reporting period, the Mechanism has co-existed with both the International Criminal Tribunal for Rwanda, until its closure on 31 December 2015, and the International Tribunal for the Former Yugoslavia and has benefited greatly from its two predecessor institutions, receiving significant operational and administrative support from them. The principals and staff of all three institutions have worked together closely and shared institutional knowledge, expertise and lessons learned, with a view to ensuring that the progressive transfer of functions from the International Criminal Tribunal for Rwanda and the International Tribunal for the Former Yugoslavia to the Mechanism is as efficient and seamless as possible.

III. Activities of the President and the Chambers

A. Principal activities of the President

16. The President, in his capacity as the head of the Mechanism, has engaged in many issues related to the representation and management of the Mechanism. He has represented the Mechanism in a variety of external forums, developed and contributed to the development of various policies and guidance documents, and held regular meetings with the Registrar on operational matters subject to the President's overall authority.

17. As mandated by the statute, during the reporting period, the President submitted two six monthly reports to the Security Council on the progress of the Mechanism and twice briefed the Security Council on the work of the Mechanism, in December 2015 and June 2016. Also as mandated by the statute, the President submitted the Mechanism's annual report to the General Assembly and the Security Council (A/70/225-S/2015/586) and briefed the General Assembly in October 2015. In accordance with a statement by the President of the Security Council of 16 November 2015, the Mechanism submitted a report (S/2015/896) on 20 November 2015 concerning the progress of its work in the initial period, including in completing its functions.

18. During the reporting period, the President engaged with State officials in Arusha, The Hague and other locations, as well as with victims' groups and members of civil society.

19. In his judicial capacity, the President coordinated the work of the Chambers with a view to achieving efficiencies and making best use of the diverse array of

judicial expertise and legal cultures reflected in its roster of 25 judges, including by providing broad and even distribution of judicial work among the judges, ensuring the full readiness of the Chambers in the event of the apprehension of fugitives and working with fellow judges and senior staff to explore ways to maximize smooth and cost-effective functioning of the Chambers more generally, given the Mechanism's novel structure. He also issued numerous assignment orders and ruled on requests for administrative review relating to matters such as the assignment of counsel and the granting of legal aid. In addition, the President presided over the Appeals Chamber and is serving as the pre-appeal judge in the cases of *Radovan Karadžić* and *Vojislav Šešelj*. With respect to the supervision of the enforcement of sentences, the President issued numerous orders and decisions relating to the designation of enforcement States, applications for early release of persons convicted by the International Criminal Tribunal for Rwanda or the International Tribunal for the Former Yugoslavia, and other public and confidential matters. He also addressed reports and complaints concerning the conditions of detention of convicted persons serving sentences under the supervision of the Mechanism.

B. Principal activities of single judges

20. During the reporting period, 16 single judges at the Arusha and Hague branches were seized of and issued orders or decisions in relation to numerous requests concerning assistance to national jurisdictions, the translation of filings, access to confidential information, the variation of protective measures, allegations of contempt and false testimony, changes in the classification of filings, and compensation. Collectively, more than 126 decisions or orders were issued during the reporting period and, as at 30 June 2016, single judges were seized of 12 matters, including three cases involving allegations of contempt or false testimony. A single judge was further assigned to conduct an inquiry into the circumstances surrounding the death of Zdravko Tolimir while in custody at the United Nations Detention Unit in The Hague. A report to the President regarding the findings of the single judge will be issued once all the necessary information is received.

C. Principal activities of the trial chambers

21. On 22 October 2015, a trial chamber at the Arusha branch, composed of Judges Vagn Joensen, presiding, William Sekule and Florence Arrey, issued a decision dismissing Jean Uwinkindi's request for the revocation of his referral to Rwanda. The Trial Chamber issued nine additional decisions or orders in the course of the first-instance proceedings relating to this matter.

22. On 17 December 2015, the President assigned a Trial Chamber at the Hague branch, composed of Judges Burton Hall, presiding, Seon Ki Park and Solomy Balungi Bossa, to conduct the full retrial ordered by the Appeals Chamber of the International Tribunal for the Former Yugoslavia in December 2015 in the case of *Jovica Stanišić and Franko Simatović*. On 18 December 2015, Mr. Stanišić and Mr. Simatović pleaded not guilty at their initial appearance and, on 22 December 2015, the Trial Chamber authorized their provisional release pending trial. The pretrial judge held hearings with the parties on 19 February 2016 and 23 May 2016. The pretrial judge and the Trial Chamber have issued 16 decisions or orders, including on a pretrial work plan, scheduling matters, preliminary motions,

provisional release and the appointment of an independent medical expert. As at 30 June 2016, pretrial proceedings are ongoing.

D. Principal activities of the Appeals Chamber

23. During the reporting period, the Appeals Chamber addressed a number of applications for review of judgment and ancillary matters. On 7 July 2015, the Appeals Chamber denied Milan Lukić's request for review. In relation to this matter, the Appeals Chamber also issued two other decisions, including a decision on 13 November 2015 dismissing Mr. Lukić's request to appeal the decision of 7 July 2015. On 8 July 2015, the Appeals Chamber denied Sreten Lukić's request for review. On 13 July 2015, the Appeals Chamber denied Eliézer Niyitegeka's request for review without prejudice, but granted his request for the assignment of counsel to assist him with a revised request for review. An additional seven decisions or orders relating to protective measures, the assignment of counsel and the reclassification of filings were issued in relation to this case. On 16 November 2015, the Appeals Chamber denied Ferdinand Nahimana's request for review. The Appeals Chamber also issued a confidential decision authorizing the assignment of counsel in relation to another potential request for review and a related order.

24. In addition, the Appeals Chamber considered a number of issues in respect of applications for provisional release from detention. On 22 October 2015, the Appeals Chamber dismissed the Prosecution's appeal of a decision taken by the President in connection with the provisional release of Dragan Nikolić. On 28 January 2016, the Appeals Chamber denied Zdravko Tolimir's request for provisional release. A public, redacted version of this decision and two orders relating to this matter were also issued. On 11 March 2016, the Appeals Chamber granted Radivoje Miletić's request for provisional release. Two other orders relating to this matter were also issued.

25. In respect of other matters, on 8 December 2015, the Appeals Chamber dismissed an appeal by Jean de Dieu Kamuhanda against a decision taken by a single judge on an issue of jurisdiction. In addition, on 17 February 2016, the Appeals Chamber dismissed an appeal by Naser Orić against a decision taken by a single judge in relation to the principle of *non bis in idem*.

26. The Appeals Chamber is seized of appeal proceedings in the case of *Radovan Karadžić* in which the International Tribunal for the Former Yugoslavia issued a trial judgment on 24 March 2016. The Appeals Chamber has granted requests for extensions of time for the filing of notices of appeal in this case, which are due by 22 July 2016. The Appeals Chamber has issued 15 decisions or orders in relation to this case during the pre-appeal proceedings, which are ongoing.

27. The Appeals Chamber is also seized of an appeal by the Prosecution against the acquittal of Vojislav Šešelj by a Trial Chamber of the International Tribunal for the Former Yugoslavia. The Prosecution filed its notice of appeal on 2 May 2016 and briefing is ongoing.

28. As at the conclusion of the reporting period, the Appeals Chamber also remained seized of an appeal filed by Jean Uwinkindi against the Trial Chamber's decision of 22 October 2015 denying his request for the revocation of the referral of his case to Rwanda. As at 30 June 2016, the Appeals Chamber and the pre-appeal

judge have issued eight decisions or orders in relation to this case, in which the briefing is ongoing.

IV. Activities of the Office of the Prosecutor

A. Introduction

29. The reporting period marked the beginning of an intense period of trial and appeal work for the Office of the Prosecutor. Pretrial proceedings in the *Stanišić and Simatović* case have now commenced for the retrial ordered by the Appeals Chamber of the International Tribunal for the Former Yugoslavia on 15 December 2015. The Office also commenced work on appeal proceedings in two cases (*Karadžić* and *Šešelj*) following the issuance of trial judgments by the Tribunal on 24 March and 31 March 2016, respectively. In addition to this trial and appeal activity in The Hague, the Office has been undertaking a high volume of case-related litigation at both branches. Finally, the Office continued its significant efforts to locate and arrest the eight remaining fugitives indicted by the International Criminal Tribunal for Rwanda.

30. The reporting period also marked the beginning of a significant new effort to further streamline operations and reduce costs by effectively integrating the staff and resources of the Office with those of the Office of the Prosecutor of the International Tribunal for the Former Yugoslavia. Since 1 March 2016, the two Offices have been implementing a "one office" approach that will allow staff and resources to be flexibly deployed across both institutions in "double-hatting" arrangements as and when needed based on operational requirements, in accordance with the Security Council's directions set forth in resolution 1966 (2010). Flexible management of all Prosecution staff and resources during the remaining period of co-existence of the Mechanism and the International Tribunal for the Former Yugoslavia is expected to yield some overall cost savings (for example, by reducing recruitment exercises), while also significantly improving the Offices' capacity to respond to any new developments within existing resources. The "one office" approach also provides an important tool to help ameliorate the impact of the ongoing staff attrition.

31. During the reporting period, the Office of the Prosecutor focused on three priorities: (a) locating and arresting fugitives; (b) the expeditious completion of trials and appeals; and (c) assistance to national jurisdictions. The Office continues to rely on the full cooperation of States to successfully carry out its mandate in these areas.

B. Fugitives

32. During the reporting period, the Office of the Prosecutor continued its efforts to locate and arrest the three fugitives whose cases will be tried by the Mechanism: Augustin Bizimana, Félicien Kabuga and Protais Mpiranya. The Office also continued to search for information on the whereabouts of the five fugitives who are currently expected to be brought to trial in Rwanda following their arrest: Fulgence Kayishema, Pheneas Munyarugarama, Aloys Ndimbati, Ryandikayo and Charles Sikubwabo.

33. The Office of the Prosecutor is at present focusing on reviewing existing leads to determine whether they should be further pursued or closed and has begun identifying potential new leads to be followed up in the coming months. The Office continued its public communication efforts concerning the search for the fugitives. The Office also conducted an overall review of its tracking efforts to date to ensure that appropriate priorities are in place and that tracking operations are directed to achieving those priorities. As part of that review, the Prosecutor redeployed resources, from within existing capacity, to further support tracking efforts. State cooperation will be essential to successfully track and arrest the remaining fugitives. In particular, the Office of the Prosecutor must rely on the cooperation of State authorities to conduct arrest operations.

C. Trials and appeals

34. During the reporting period, the Office of the Prosecutor commenced its first trial and appeals proceedings arising out of cases transferred from the International Tribunal for the Former Yugoslavia pursuant to the Mechanism's statute and the transitional arrangements. At The Hague, the Office is conducting one trial (*Stanišić and Simatović*) and two appeals (*Karadžić* and *Šešelj*). It is expected that the Office will also conduct any appeal proceedings in the *Mladić* case following the anticipated rendering of the trial judgment in November 2017.

35. On 15 December 2015, the Appeals Chamber of the International Tribunal for the Former Yugoslavia partially granted the appeal of the Office of the Prosecutor of that Tribunal in the *Stanišić and Simatović* case, revoked the Trial Chamber's judgment and ordered the case to be retried on all counts. Pursuant to the Mechanism's statute and the transitional arrangements, this retrial falls within the jurisdiction of the Mechanism. The Office of the Prosecutor has commenced intensive pretrial preparations in this case. The Pre-Trial Chamber has not yet made a decision on the opening date for the retrial, but one is expected soon.

36. On 24 March 2016, a Trial Chamber of the International Tribunal for the Former Yugoslavia unanimously convicted Radovan Karadžić of genocide, crimes against humanity and war crimes, and sentenced him to a term of imprisonment of 40 years. The defence has indicated that it will file an appeal. The Office of the Prosecutor is currently reviewing the trial judgment to determine whether there are grounds for appeal. At the request of the defence, the pre-appeal judge of the Mechanism granted an extension of 90 days for the filing of notices of appeal in this case, which are thus now due no later than 22 July 2016.

37. On 31 March 2016, a Trial Chamber of the International Tribunal for the Former Yugoslavia, by a majority, acquitted Vojislav Šešelj on all counts of the indictment against him. The Office of the Prosecutor announced its intention to appeal the judgment in a public statement on 6 April 2016 and filed its notice of appeal on 2 May 2016.

38. The Office of the Prosecutor continues to rely on the full cooperation of States to successfully complete its mandate, as set out in article 28 of the Mechanism's statute. The Office's access to documents, archives and witnesses is critical for ongoing Mechanism trial and appeal proceedings. During the reporting period, cooperation by Serbia, Croatia, Bosnia and Herzegovina and Rwanda with the

Office of the Prosecutor remained satisfactory. The Office fully expects that its requests for assistance will be promptly and adequately processed.

39. The Office of the Prosecutor is committed to exploring all reasonable measures within its control to expedite the completion of these trial and appeals proceedings, while recognizing that ultimately it is for the respective Chambers to manage the proceedings and set appropriate deadlines for the parties and themselves. The Office looks forward to receiving projections from the Chambers as to the expected timelines for the ongoing cases.

D. National war crimes prosecutions

1. Monitoring of referred cases

40. Five cases referred by the International Criminal Tribunal for Rwanda under rule 11 bis are currently being processed in the national courts of France and Rwanda. The cases against Wenceslas Munyeshyaka and Laurent Bucyibaruta were referred to France in 2007 and have not yet been completed. The cases against Jean Uwinkindi, Bernard Munyagishari and Ladislas Ntaganzwa were referred to Rwanda in 2012 and 2013, and proceedings are ongoing.

41. Wenceslas Munyeshyaka, an ordained Catholic priest, was indicted by the International Criminal Tribunal for Rwanda in July 2005 on four counts of genocide, rape as a crime against humanity, extermination as a crime against humanity and murder as a crime against humanity. The investigation by the French authorities in the *Munyeshyaka* case has not resulted in these charges being brought against the suspect. On the recommendation of the Paris Public Prosecutor, *the juge d'instruction* on 2 October 2015 confirmed the *non-lieu* dismissal of the case. Civil parties have appealed the ruling and a decision on the appeal is expected in the near future.

42. Laurent Bucyibaruta, the *préfet* of Gikongoro *préfecture*, was indicted by the International Criminal Tribunal for Rwanda in June 2005 on six counts of direct and public incitement to commit genocide, genocide, complicity in genocide, extermination as a crime against humanity, murder as a crime against humanity and rape as a crime against humanity. The investigation by the French authorities remains under way. On the basis of available information, it is understood that the investigation is expected to be completed in the near future.

43. Jean Uwinkindi, a pastor in the Pentecostal Church, was indicted by the International Criminal Tribunal for Rwanda in September 2001 on three counts of genocide, conspiracy to commit genocide and extermination as a crime against humanity. He was transferred to Rwanda for trial on 19 April 2012 and the trial commenced on 14 May 2012. On 30 December 2015, the High Court issued its trial judgment, convicting Mr. Uwinkindi and sentencing him to life imprisonment. The defence will now have the opportunity to appeal that judgment.

44. Bernard Munyagishari, a local leader in the *Mouvement révolutionaire national pour le développement* party, was indicted by the International Criminal Tribunal for Rwanda in September 2005 on five counts of conspiracy to commit genocide, genocide, complicity in genocide, murder as a crime against humanity and rape as a crime against humanity. He was transferred to Rwanda for trial on 24 July 2013. His case remains in the pretrial phase. A number of recent delays have been

attributable to ongoing disputes and litigation regarding the assigned defence counsel.

45. Ladislas Ntaganzwa, the *bourgmestre* of Nyakizu *commune*, was indicted by the International Criminal Tribunal for Rwanda in June 1996, with the amended indictment charging him on five counts of genocide, direct and public incitement to commit genocide, extermination as a crime against humanity, murder as a crime against humanity and rape as a crime against humanity. He was transferred to Rwanda for trial on 20 March 2016.

2. Assistance to national jurisdictions

46. With the closure of the International Criminal Tribunal for Rwanda and the near completion of the mandate of the International Tribunal for the Former Yugoslavia, further accountability for crimes committed in Rwanda and the former Yugoslavia now depends on national justice sectors. In the affected countries, effective prosecution of the crimes committed is of fundamental importance for building and sustaining the rule of law, establishing the truth concerning what occurred and promoting reconciliation. Third-party States are also undertaking prosecutions against suspects present in their territory for crimes committed in Rwanda and the former Yugoslavia. National justice is now essential to achieve greater justice for the victims of horrific atrocities.

47. The Office of the Prosecutor places a high priority on monitoring, supporting and advising national judicial authorities prosecuting war crimes cases arising out of the conflicts in Rwanda and the former Yugoslavia. The Office possesses invaluable evidence and expertise that can greatly benefit national justice efforts. The former Yugoslavia-related evidence collection comprises more than nine million pages of documents and thousands of hours of audio and video records, most of which were not introduced as evidence in any proceeding of the International Tribunal for the Former Yugoslavia and thus are only available from the Office of the Prosecutor. The Rwanda-related evidence collection comprises more than one million pages of documents.

48. During the reporting period, the Office of the Prosecutor continued to receive a high volume of requests for assistance from national judiciaries and international organizations.

E. Other residual functions

49. During the reporting period, the Office of the Prosecutor continued to perform its responsibilities in respect of other residual functions.

50. As previously reported, the volume of non-trial and appeal litigation in the Mechanism continues to be higher than previously expected. One noticeable trend has been the many attempts by convicted persons to obtain review and ultimately revocation of their convictions entered by the International Criminal Tribunal for Rwanda and the International Tribunal for the Former Yugoslavia. The Office must carefully monitor and respond to such motions in order to ensure the integrity of the convictions previously obtained.

51. The Office of the Prosecutor also continued to make submissions when invited in relation to the enforcement of sentences of persons convicted by the International

Criminal Tribunal for Rwanda and the International Tribunal for the Former Yugoslavia, particularly on requests by convicted persons for early release.

52. During the reporting period, the Office of the Prosecutor completed the process of assuming responsibility for all active records and the evidence collection of the Office of the Prosecutor of the International Criminal Tribunal for Rwanda. In the coming months, the files received will be processed and relevant policies will be applied.

V. Activities of the Registry

53. The Registry provided administrative, legal, policy and diplomatic support to Mechanism operations.

A. Administration, staffing and facilities

54. During the reporting period, the General Assembly, by its resolution 70/243, approved the Mechanism's budget presented by the Registrar. In that resolution, the Assembly decided to appropriate to the Special Account for the Mechanism a total amount of US$ 137,404,200 gross (US$ 126,945,300 net) for the biennium 2016-2017.

55. Over the past year, the Mechanism has continued with the development and establishment of its own self-standing administration, with a focus on ensuring efficiency, accountability and consistency. This process is in step with the downsizing of the Tribunals, significant support being provided by "double-hatting" International Tribunal for the Former Yugoslavia administrative staff.

56. Following the closure of the International Criminal Tribunal for Rwanda at the end of 2015, the Arusha branch of the Mechanism assumed responsibility for the general services and security functions that used to be provided by the that Tribunal. Consistent with previous transfers of functions from the Tribunals, this transition occurred seamlessly, without any gap in the provision of services. The Arusha branch will continue to provide these services to the International Criminal Tribunal for Rwanda Liquidation Team for the duration of its existence.

57. The Arusha branch was co-located with the International Criminal Tribunal for Rwanda Liquidation Team over the latter half of the reporting period. In the second half of 2016, the Arusha branch is expected to assume occupancy of its new premises, which, at the close of the reporting period, were in the late stages of construction and being prepared for occupancy. Construction of the new premises was recently rated satisfactory in an audit report of the Office of Internal Oversight Services (OIOS). The project continues to remain within budget and to apply lessons learned and best practices from other United Nations capital projects. The Mechanism submits annual progress reports to the General Assembly on the construction project and posts regular updates on the progress of construction on the Mechanism's website.[1] The Mechanism is deeply grateful for the sustained cooperation of the Government of the United Republic of Tanzania and for the

[1] www.unmict.org/en/about/construction-arusha-facility.

technical advice of the United Nations Secretariat, particularly the Office of Central Support Services and the Office of Legal Affairs.

58. The Hague branch of the Mechanism is co-located with the International Tribunal for the Former Yugoslavia and will continue to be so co-located for the remaining period in which their mandates overlap. The Mechanism sees benefit in remaining at its current premises after the closure of the International Tribunal for the Former Yugoslavia. Discussions with the host State authorities and the owners of the premises to that end are ongoing.

59. As at 30 June 2016, the Mechanism has a total of 331 staff (on posts and in general temporary assistance positions) on board: 156 at the Arusha branch, including the Kigali office, and 175 at the Hague branch. The Mechanism's staff comprises nationals of 63 States. Of the staff at the Professional level and above, 59 per cent are female and 41 per cent male. Approximately 87 per cent of those recruited were current or former staff of the International Criminal Tribunal for Rwanda and the International Tribunal for the Former Yugoslavia. Of the Mechanism's 177 continuing posts, 6 (3 per cent) are currently vacant. Recruitment for these posts is ongoing.

B. Support for judicial activities

60. The Registry continued to support judicial activities in both branches by preparing and managing court hearings, including the initial appearance and pretrial hearings in the *Stanišić and Simatović* retrial, and providing support to the *Karadžić* and *Šešelj* appeal proceedings. In early 2016, the Registry also facilitated the successful transfer of an International Criminal Tribunal for Rwanda indictee, Ladislas Ntaganzwa, from the Democratic Republic of the Congo for trial proceedings in Rwanda.

61. The support provided by the Registry included the processing of judicial filings (over 2,330 filings consisting of 20,300 pages in both branches during the reporting period) and the assignment and remuneration of defence teams. Additionally, the Language Support Services provided translations of judgments and other documents into Bosnian/Croatian/Serbian, English, French and Kinyarwanda, as well as other languages, as required. The Kinyarwanda Language Unit was created at the Arusha branch in January 2016, following the closure of the International Criminal Tribunal for Rwanda, to ensure and enhance the Mechanism's capacities in this regard.

62. During the reporting period, the Registry adopted policies governing the remuneration of defence counsel in pre-trial, appeal, and contempt and false testimony proceedings, as well as a policy for the remuneration of persons assisting indigent self-represented accused persons.

63. The Registry continued to support all sections of the Mechanism in the ongoing expansion of rosters of qualified potential staff, in order to ensure that the Mechanism can scale up rapidly in the event of sudden judicial activity, for instance following the arrest of a fugitive.

64. The Registry also expanded the list of qualified counsel who can be assigned to suspects or accused persons under rule 43 (B) of the Rules of Procedure and Evidence of the Mechanism, as well as the roster of duty counsel under rule 43 (C)

who are available to be assigned to an accused person for the purposes of an initial appearance. The Registry also facilitated the engagement of *pro bono* counsel for convicted persons.

C. Support for other mandated activities

1. Witness support and protection

65. The Mechanism is responsible for witness support and protection in relation to thousands of witnesses who have testified in cases completed by the two Tribunals.

66. The Witness Support and Protection Unit provides essential protection and support services. Consistent with judicial protection orders and in close collaboration with national authorities or other United Nations entities, the Unit provides security to witnesses by undertaking threat assessments, coordinating responses to security requirements and safeguarding confidential witness information. In addition, the Arusha branch of the Unit continues to provide support services to witnesses in Kigali, including specialized medical and psychosocial care for witnesses who were victims of sexual or gender-based violence during the Rwandan genocide. The Hague branch supported the International Tribunal for the Former Yugoslavia during the finalization of a pilot study on the long-term impact of giving testimony at the Tribunal. The Arusha branch continues to explore opportunities to extend the project to include witnesses who appeared before the International Criminal Tribunal for Rwanda.

67. At both branches, the Unit continued to contact witnesses in response to requests from national jurisdictions seeking rescission, variation or augmentation of protective measures pursuant to rule 86 of the Rules of Procedure and Evidence of the Mechanism.

68. Finally, as part of the commitment to continue strengthening the maintenance of witness related records received from the Tribunals, the Unit established a common information technology platform for the respective witness databases at each branch. The common information technology platform became fully accessible to both branches in November 2015, the aim being to maximize operational efficiencies across the two branches.

2. Archives and records management

69. During the reporting period, the Mechanism's Archives and Records Section continued to work with the Tribunals on the preparation of their records and archives for transfer to the Mechanism. The Section provided training, advice and practical assistance to staff and facilitated both the transfer of active records to Mechanism offices and the transfer of inactive records to the Section for storage. It is estimated that the archives of the two Tribunals will collectively amount to approximately 10,000 linear metres of physical records and approximately three petabytes of digital records.

70. To date, the Section has received over 96 per cent of the International Criminal Tribunal for Rwanda's and somewhat over 30 per cent of the International Tribunal for the Former Yugoslavia's inactive physical records that are expected to be transferred to the Section. The Section has also completed the transfer of all the digital records of the International Criminal Tribunal for Rwanda, amounting to

1.2 petabytes, and has transferred approximately 80 per cent, 1.48 petabytes, of the digital records of the International Tribunal for the Former Yugoslavia.

71. During the reporting period, the procurement of a digital preservation system, which will ensure the long-term preservation of the Tribunals' digital archives, was completed and progress was made on the development of a unified system for managing the judicial records of both Tribunals and the Mechanism. The Section continued to develop the Mechanism's records and archives governance structure.

72. During the reporting period, the Registry developed a new public interface for access to the judicial records of the Mechanism and the International Criminal Tribunal for Rwanda, making over 27,000 public judicial records accessible via the Mechanism's website. The Section also preserved the over 2,000 audiovisual recordings of the *Karadžić* trial, enabling the International Tribunal for the Former Yugoslavia to make over 1,300 public recordings available online, and the Registry launched the first online exhibition of archives of both Tribunals.

73. In an OIOS audit conducted during the reporting period, the Mechanism's management of the archives and records was rated satisfactory.

74. Finally, the Mechanism maintained its library in Arusha as one of the premier international law research resources in East Africa. The library issued the latest edition of the *International Criminal Tribunal for Rwanda Special Bibliography* in November 2015 and is currently preparing the 2016 edition, which will include resources relating to both Tribunals.

3. Enforcement of sentences

75. During the reporting period, the Hague branch transferred four convicted persons to enforcement States following orders issued by the President. At the end of the reporting period, the Arusha branch was enforcing 28 sentences in two States and the Hague branch was enforcing 18 sentences in nine States. Currently, 10 convicted persons at the United Nations Detention Facility in Arusha and two convicted persons at the United Nations Detention Unit in The Hague are awaiting transfer to enforcement States. On 1 October 2015, the Mechanism assumed responsibility for the management and operations of the United Nations Detention Facility in Arusha. There has been no disruption in services provided to the detainees during or after the transition.

76. Following the transfer to the Government of Senegal in December 2015 of eight prison cells in Sébikotane Prison, refurbished by the International Criminal Tribunal for Rwanda, the Mechanism undertook and completed the procurement of furniture and other necessary assets to furnish the cells for prospective use in the enforcement of sentences under the supervision of the Mechanism.

77. The Mechanism continued both to seek the cooperation of existing enforcement States in enforcing sentences of the International Criminal Tribunal for Rwanda, the International Tribunal for the Former Yugoslavia and the Mechanism, and to secure additional agreements to increase its enforcement capacity for both branches. On 13 May 2016, the Mechanism concluded an agreement with Mali on the enforcement of sentences of the International Criminal Tribunal for Rwanda or the Mechanism. This agreement reflects best practices in the enforcement of international sentences. Similar agreements are under negotiation with other

enforcement States. The Mechanism is grateful to Member States that are enforcing sentences and to those that are considering enforcing sentences in future.

78. Throughout the reporting period, the Mechanism continued to rely on the Department of Safety and Security and the United Nations Multidimensional Integrated Stabilization Mission in Mali for advice and reports on the security situation in Mali, where 16 convicted persons are serving their sentences under the supervision of the Mechanism.

79. The Mechanism also enforced an outstanding International Tribunal for the Former Yugoslavia contempt sentence during the reporting period. Florence Hartmann, convicted of contempt on 14 September 2009, was arrested on 24 March 2016 and was granted early release after having served two-thirds of her seven-day sentence.

4. Assistance to national jurisdictions

80. The Registry facilitates requests by national authorities, or parties to national proceedings, for assistance in connection with domestic proceedings related to the genocide in Rwanda or the conflicts in the former Yugoslavia. During the reporting period, the Registry processed 120 requests for assistance, including requests to question detained persons and protected witnesses, to rescind, vary or augment protective measures for witnesses and to retrieve and transmit confidential and certified material to national authorities.

5. Upkeep and relocation of acquitted and released persons

81. The Mechanism has continued the efforts undertaken by the International Criminal Tribunal for Rwanda to facilitate the relocation of persons acquitted by, or who have completed the sentences imposed by, that Tribunal and is exploring fresh approaches to address the pressing situation pertaining to these individuals. In June 2016, a European State granted a family reunification visa to one of the acquitted persons, reducing to 13 the number of acquitted and released individuals currently remaining in Arusha. In addition, a revised and more efficient approach in relation to the upkeep of the acquitted and released persons in Arusha pending their relocation is being implemented from July 2016. The recent conclusion of a new agreement with Mali on the enforcement of sentences contains specific provision for the situation of persons released following the completion of their sentences in that State, and the Mechanism is engaged in negotiations towards the same end with other States. The Mechanism is grateful to the States concerned and remains appreciative of the ongoing support of the Security Council and the international community in this regard.

6. Monitoring of referred cases

82. Pursuant to article 6 (5) of its statute, during the reporting period the Mechanism monitored three cases referred to Rwanda through monitors from the Kenyan Section of the International Commission of Jurists. The Mechanism continues to work on establishing a similar monitoring arrangement for the two cases referred to France, which were monitored by interim monitors from the International Criminal Tribunal for Rwanda, the International Tribunal for the Former Yugoslavia or the Mechanism during the reporting period. Public monitoring reports are posted on the Mechanism's website.

7. External relations and information-sharing

83. The Mechanism's website continued to be an essential channel of communication for external audiences, gathering more than 300,000 page views over the reporting period. The webpage highlighting progress in the construction of the Arusha facility was converted into a microwebsite (a special feature website). As part of a joint project with the Mechanism's Archives and Records Section, another microsite was designed to host the first online exhibition showcasing a selection of the Tribunals' archive materials. The Mechanism's activities can also be followed on Facebook, Twitter, LinkedIn, Flickr and YouTube.

84. In addition, over the reporting period, the Mechanism conducted presentations for various groups of visitors. A dedicated spokesperson was also designated from the existing staff resources at the Hague branch.

85. Finally, the first diplomatic briefing by the Mechanism's principals was organized in The Hague on 24 May 2016 and was attended by approximately 100 diplomats from The Hague and Brussels.

VI. Conclusion

86. The Mechanism's progress in completing its judicial and other work swiftly, while maintaining the highest of standards, underscores its commitment to the mandate entrusted to it by the Security Council and to serving as an efficient and effective model for international criminal justice institutions. During the reporting period, all relevant remaining aspects of the work of the International Criminal Tribunal for Rwanda were transferred smoothly to the Mechanism following the Tribunal's closure in December 2015. As the Mechanism commences its new period of operations, moving into a phase of intense judicial activity even as it prepares to assume responsibility for the relevant remaining aspects of the work of the International Tribunal for the Former Yugoslavia upon the closure of that Tribunal, it will continue to focus on carrying out its mandate in a timely, lean and efficient manner.